

CHAPTER 5

DISCIPLINE

SECTION 1. ADMINISTRATIVE DISCIPLINARY MEASURES

5101. PRISONER DISCIPLINE

1. Discipline, not harshness, is the heart of the correctional process. Nowhere is it more important than in military briggs, since persons returning to duty after confinement can serve satisfactorily only if they are able to conduct themselves in a disciplined manner. Most prisoners in Navy and Marine Corps briggs are young, and are in confinement due to their lack of self-discipline.
2. Discipline can be learned, but only in a disciplined environment. Briggs must at all times provide such an environment, which is enhanced by requiring a high standard of staff discipline. If every member of the staff meets high personal standards of discipline and if staff morale is high, prisoners will observe this and most will respond positively. The objective is to instill discipline by teaching and demonstrating the value of self-discipline.
3. Rules for prisoners shall reflect Department of the Navy policies and should cover the essential elements of the brig's correctional program and the daily routine.
4. New prisoners shall be given a copy of the rules governing prisoner conduct, to be retained by them until their release.
5. Instructions concerning various prisoner routines and responsibilities should be thoroughly explained in the reception phase. It must be realized that newly-arrived prisoners are in unfamiliar surroundings. They must be informed of the limitations placed on their activities, and the opportunities available to them for self-improvement.
6. The daily routine and schedules of special activities should be prominently displayed in places readily accessible to prisoners.
7. Basically three rules are required of prisoners:
 - a. "Don't escape, attempt to escape, or aid another to escape."
 - b. "Do not have contraband in your possession."

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c. "Do not engage in disruptive behavior."

8. Each prisoner is expected to comply with the brig rules and each will be informed that any attempt to circumvent regulations will be punishable as a breach of discipline.

9. Prisoners are subject to the UCMJ, regardless of discharge status.

10. Personnel in confinement shall observe military courtesies in accordance with customs, traditions, and usage of the Navy or Marine Corps, as appropriate. They shall not be required to observe or practice military courtesies or other requirements which are unorthodox and not standard military practices. The following are examples of prohibited requirements:

a. Requiring prisoners to salute or address enlisted personnel as "sir;" or to refer to themselves by a number vice their name.

b. Requiring all prisoners to begin or end all statements to enlisted personnel with "sir."

c. Requiring prisoners to face bulkheads at close range in the passage of staff members.

d. Requiring prisoners to request permission to speak.

11. Military courtesies and discipline shall be taught and required in a brig as they are practiced in a regular military unit or aboard a ship or station. Extra military instruction (EMI) is widely utilized throughout the services as a means of improving military performance. Its use is particularly appropriate as a method of improving military standards of offenders. Calisthenics or military drill shall not be imposed as EMI.

12. Gambling among prisoners is specifically prohibited.

5102. ADMINISTRATIVE DISCIPLINARY PROCEDURES

1. Brigs

a. Navy Brigs. Commanding officers or officers-in-charge (CO/OIC) may impose punishment on prisoners. This authority may also be granted to brig officers when also designated as CO/OIC. Actions taken in connection with administrative disciplinary procedures do not preclude trial by court-martial or action under article 15, UCMJ.

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b. USMC Brigs. As outlined in article 3202.2a.(2), the brig officer, when authorized in writing by the commanding officer, may impose those administrative disciplinary measures outlined in article 5103.2.

2. General

a. The rules of a brig must be enforced in a just and impartial manner. Violations must never be ignored or condoned, and minor violations should be dealt with on the spot by staff members. Normally, calling the individual aside and explaining why his or her behavior is unacceptable will suffice. Excessive use of disciplinary reports reduces their effectiveness. For minor offenses, on a single occasion local privileges such as TV may be withheld from an individual prisoner by the quarters supervisor, or Brig Duty Officer in Navy brigs; this function is reserved to the Duty Brig Supervisor in Marine Corps brigs. Mass or group punishment for the offense of an individual is strictly prohibited. Specific guidelines shall be promulgated in local regulations and each instance recorded in the brig log.

b. Disciplinary reports should be reserved for serious offenses, or to interrupt a pattern of unacceptable behavior, such as a series of minor infractions in a short period of time.

c. No inference should be drawn that every minor incident must be put in writing; however, informal spot reports placed in a prisoner's file provide an excellent means of evaluating his or her performance.

3. The following procedures shall be followed when a prisoner commits an infraction of regulations, and an on-the-spot verbal correction or a written spot report is not considered appropriate:

a. When a staff member reports an offense, the prisoner shall be informed, at the time, of the nature of the charge or allegation of which the individual is accused. The disciplinary report (NAVPERS 1640/9) shall be used in reporting offenses. Contraband or other evidence substantiating the charge is to be submitted with the report.

b. The disciplinary report shall contain sufficient information to identify the offender; the nature of the offense; the date, time, and place the offense occurred; and the names of witnesses, if any.

c. An informal investigation into the circumstances of the offense shall be made by a staff member not involved in the

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incident. Prisoners who are on report may make a statement in their own behalf, after they have been warned against self-incrimination in compliance with article 31, UCMJ, and informed of their rights to consult with counsel. After having their rights explained, prisoners may sign a waiver of their rights and request an immediate hearing without consulting counsel, obtaining a personal representative, or calling witnesses.

d. If the investigation recommends a hearing by the Disciplinary and Adjustment Board, or hearing by the CO/OIC if the matter is serious enough, written notice of the charges shall be given to prisoners at least 24 hours in advance of the hearing. In the absence of a specific finding that such would not adversely affect the security and good order of the brig, prisoners will be allowed to call witnesses for the presentation of relevant testimony, and to present documentary evidence in their defense. The prisoner has no right to cross-examine witnesses. In cases where the security or good order of the brig would be adversely affected, the identity of witnesses will not be revealed to the prisoner.

e. In all cases the prisoners will be allowed to appear and make statements in their defense, and to be present during all open sessions of the hearings.

f. There is no right to the appearance of counsel during the hearing. This is not a criminal trial; it is an administrative proceeding. Its purpose is to determine whether an offense was committed and to provide punishment, if appropriate. Such punishment is primarily corrective in nature, designed for minor misconduct in a nonjudicial forum. As such, the standard of proof by which facts must be established is by a "preponderance of the evidence," rather than "beyond a reasonable doubt," as it is in a court-martial. It is recommended in actions where the prisoner is illiterate or where unusually complex issues exist that a knowledgeable staff member be assigned to explain the issues and procedures and provide guidance as necessary.

g. When the offense is of a nature that it requires action by the CO/OIC, the disciplinary report, the prisoner's file (to include the Prisoner Conduct Record, NAVPERS 1640/8), and any other material considered applicable to the incident shall be forwarded to the commanding officer for review before the disciplinary hearing.

h. There must be a written statement by the officer conducting the hearing that lists the evidence relied upon and the reasons for disciplinary action taken. The disciplinary action shall become effective when announced. The time spent in

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special quarters pending investigation in reaching an appropriate punishment shall be considered, but the officer(s) administering the punishment is not bound to give credit for such time.

4. There may be cases which are too serious to be resolved by a spot report, but which do not merit a hearing by the commanding officer. A Discipline and Adjustment Board will be appointed at each brig to hear such cases. The board should be composed of at least three members without direct personal interest in a given incident. It is chaired by the staff member next in authority to the brig officer, and enlisted personnel may serve as board members when designated by the brig officer, or in the Marine Corps, by the CO/OIC. The brig officer will review and approve or disapprove the findings and/or recommendations of the board and will forward such action to the CO/OIC when appropriate.

5. The record of such proceedings shall become a part of the prisoner's file.

5103. AUTHORIZED ADMINISTRATIVE DISCIPLINARY MEASURES

1. If appropriate, prisoners may be recommended to their parent commanding officer for punishment under article 15, UCMJ, or trial by court-martial.

2. The CO/OIC may impose any of the punishments listed in article 5103.3 upon any person, including members of other military services, confined in the facility. The CO/OIC may authorize his/her next senior officer to impose administrative reprimand or warning, loss of privileges, and extra duty upon prisoners in the CO/OIC's absence.

3. One or more of the following disciplinary measures may be imposed on a prisoner for misconduct:

a. Administrative Reprimand or Warning

b. Loss of Privileges. The privileges subject to deprivation by disciplinary action are those established to encourage good conduct. However, attendance at religious services, receiving visitors, correspondence, and smoking shall not be restricted unless the misconduct is directly related to them and restriction is necessary.

c. Extra Duty. Extra duty shall not conflict with regular meals, regular sleeping hours, attendance at scheduled religious services, or interviews with authorized persons (i.e., chaplain, medical officer, legal counsel, etc.) or with regular visiting hours. Extra duty shall be limited to 2 hours per day for a

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maximum of 14 consecutive days and shall consist of constructive and useful work. Extra duty shall not be served on Sundays and holidays, although they count in the computation of the period for which such punishment is imposed. The use of calisthenics and close order drill for extra duty is prohibited.

d. Forfeiture of Good Conduct Time. The CO/OIC of the brig may forfeit any or all of the prisoner's good conduct time earned to include that good conduct time administratively credited for pre-trial confinement. In addition, all good conduct allowances earned up to the date of violation may be forfeited. Except for time forfeited for parole or probation violations, the CO/OIC of the brig may subsequently restore good time forfeited by themselves or another CO/OIC. Forfeiture resulting from escape should not be restored. Suspension of a forfeiture of good conduct time for a probationary period is authorized.

e. Disciplinary Segregation. Disciplinary segregation should be imposed in those cases considered serious from the institutional standpoint, but which may not be initially referred for action under article 15, UCMJ, or courts-martial. Prisoners serving disciplinary segregation should remain in their assigned cells except as noted in paragraph 5103.3(e)(5) of this manual.

(1) Disciplinary segregation shall be served in a single occupancy cell, where the prisoner cannot communicate with unauthorized personnel, and most privileges will be denied. Prisoners shall remain in their cells at all times except as specified below. They shall not be taken out of the cells to attend religious services. Assistance in the observance of denominational requirements, when available, should be provided in the cells when appropriate. Prisoners in disciplinary segregation shall not participate in recreational activities.

(2) The CO/OIC is authorized to impose a special diet in conjunction with disciplinary segregation. A special diet should only be imposed when expected to create a positive effect and should not be used as a routine adjunct to disciplinary segregation. Certification by the medical officer prior to imposing a special diet is required to document that this additional measure will not adversely affect the prisoner's health. This documentation will be filed in the prisoner's file. The mess officer will document the amount of calories for each meal and the special diets shall consist of three meals daily to provide not less than 2100 calories daily. All items of the regular daily ration will be included except sweets and desserts. Normal standards of preparation and service of food will be maintained. Water will be the only drink. Disciplinary segregation on special diet may not exceed 15 days. Consecutive

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periods of disciplinary segregation (15 days in, 1 out, 15 days in, etc.) is not authorized by a single disciplinary hearing. Termination of disciplinary segregation automatically terminates special diet.

(3) Prisoners in disciplinary segregation shall be permitted to receive mail and write letters, and at the discretion of the brig officer or commanding officer, to receive personal visitors, unless the offense was directly connected with such a privilege. Official visits shall be permitted at the brig.

(4) Meals will be served in the cells.

(5) A 1-hour exercise period shall be granted daily when the prisoner's behavior is satisfactory. Shower privileges will also be granted if the prisoner's behavior is satisfactory. At a minimum, prisoners will be allowed to shower every other day.

(6) Disciplinary segregation should not be ordered for a fixed period of time and should be terminated by the brig officer as soon as the prisoner demonstrates that segregation has served its purpose. The duration of confinement in disciplinary segregation shall be determined by, and take into account, any improvement in the prisoner's conduct and attitude. Under no circumstances will a prisoner in disciplinary segregation be precluded from corresponding or consulting with counsel.

(7) The brig officer or other designated officer and a member of the medical staff shall visit each prisoner in disciplinary segregation daily, log such visits, and recommend a change in status to the commanding officer when it is considered that segregation has served its purpose. On weekends and holidays this visit may be made by the command duty officer or a staff member designated by the brig officer.

(8) A DD 509 will be maintained adjacent to each prisoner's cell in disciplinary segregation.

(9) Prisoners released from disciplinary segregation will normally be placed in medium-in custody.

f. The preceding articles are specific as to those punishments a prisoner may receive and by whom they may be administered. Adding to or making adjustments of legally administered punishment is prohibited.

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SECTION 2. GENERAL REQUIREMENTS

5201. PERSONAL APPEARANCE

1. Prisoners shall be clean, neat, and well-groomed.
2. Except for a badge to differentiate between custody classification and legal status, prisoners shall wear their service uniforms in the manner prescribed or, when directed service wide, wear authorized prisoner uniforms. Post-trial prisoners in Navy brigs will not wear rank insignia while confined and rank insignia will not be worn by any personnel confined in Marine Corps brigs.

5202. GROOMING STANDARDS. Prisoners shall wear their hair in accordance with current grooming regulations of the prisoner's service. Haircuts shall not be administered for the purpose of harassment or humiliation, but only to ensure a uniform, military appearance. Facial hair is not authorized for post-trial prisoners or correctional custody awardees (U.S. Navy Uniform Regulations, 1991).